

# **SALES AND USE TAX REVIEW COMMISSION**

## **RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

**BILL NUMBER:** A-2967

**DATE OF  
INTRODUCTION:** 11/13/00

**SPONSOR:** Assemblyman Garrett

**DATE OF  
RECOMMENDATION:** 2/26/01

**IDENTICAL BILL:** S-523

**COMMITTEE:** Assembly Telecommunications and Utilities

### **DESCRIPTION:**

This bill exempts certain sales made by rural electric cooperatives from the sales and use tax and corporation business tax. Currently, Sussex Rural Electric is the only electric cooperative in the state.

### **ANALYSIS:**

Pursuant to the Energy Tax Reform legislation, the retail sale of electricity became subject to sales tax as of January 1, 1998. All entities that were previously subject to the Gross Receipts and Franchise Tax (GRAFT) (which was repealed) became subject to the provisions of the Sales and Use Tax Act. Municipalities across the state receive significant municipal aid which is derived from these tax collections. Sussex Rural Electric was subject to the GRAFT and thus, is required to collect sales tax on its retail electricity sales. This bill would disrupt the level playing field established under deregulation by granting Sussex a significant competitive advantage in servicing the customers within its franchise area. Any competitor within the franchise area is required to collect sales tax on its sales of electricity. If an exemption is available for sales made

by Sussex, that entity would be virtually guaranteed a captive customer base, because there would be a disincentive to switch electricity providers. This is counter to the basic premise of deregulation, which is to open the electricity market to competition by treating all sellers equally.

**RECOMMENDATION:**

The Commission does not recommend enactment of this bill.

**COMMISSION MEMBERS FOR PROPOSAL: 1**

**COMMISSION MEMBERS AGAINST PROPOSAL: 6**

**COMMISSION MEMBERS ABSTAINING: 0**

**COMMISSION MEETING DATE: 2/14/01**